

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA

v.

JUSTIN GLYNN FRENCH,

Defendant.

Criminal No. 3:11CR017

IN RE: THIRD PARTY CLAIMS BY:

LYNN L. TAVENNER, AS CHAPTER 7
TRUSTEE OF THE ESTATE OF JUSTIN
GLYNN FRENCH, and

PARAGON COMMERCIAL BANK.

**UNITED STATES' MOTION TO DISMISS PETITIONS OF BANKRUPTCY TRUSTEE
AND PARAGON COMMERCIAL BANK FILED IN RESPONSE TO
THIRD CONSENT ORDER OF FORFEITURE**

COMES NOW the United States of America, by counsel, and moves to dismiss the Bankruptcy Trustee's Second Verified Petition Pursuant to 21 U.S.C. § 853) (Document 43) and Paragon Commercial Bank's Petition Pursuant to 21 U.S.C. § 853 Relating to Third Forfeiture Order (Document 40). In support of this motion, the United States offers the following:

On May 3, 2011, this Court entered a Third Preliminary Order of Forfeiture (Document 24). On June 23 and June 30, 2011 respectively, Paragon Commercial Bank [Paragon] and the bankruptcy trustee in a related matter filed petitions pursuant to 21 U.S.C. § 853 to assert an interest in the property listed in the Third Preliminary Order of Forfeiture. These petitions make

the same claims to the property listed in the Third Preliminary Order of Forfeiture as were made by the movants with respect to the property listed in the Second Preliminary Order of Forfeiture (Document 18).

On June 2, 2011, the Government moved to dismiss the Trustee's and Paragon's petitions as to the Second Preliminary Order of Forfeiture. (Document 34). The Trustee and Paragon each filed an opposition to the motion to dismiss. (Document 35 - Paragon's Opposition; Document 36 - Trustee's Opposition). Thereafter, the Government filed replies to both responses. (Documents 37 and 38).

The most recent petitions by the Trustee and Paragon simply reassert the same claims and supporting argument to the assets included in the Third Preliminary Order of Forfeiture as were asserted by these two claimants to the assets listed in the Second Preliminary Order of Forfeiture. Thus, the Government's position as to the most recent petitions is identical to its position asserted in the Government's pleadings to these claimants' prior petitions; namely, that the claimants lack standing to assert a claim to the assets being forfeited. As this is purely a legal issue that has been fully briefed by the Government (Documents 34,37 and 38), the United States hereby incorporates by reference the arguments and evidence¹ previously submitted in support of its prior motion to dismiss the similar claims of the Trustee and Paragon.

WHEREFORE, the Government prays the petitions of the Trustee and Paragon as to the Third Preliminary Order of Forfeiture be dismissed.

¹ The only evidence submitted by the Government in connection with its opposition to the original petitions was a declaration by FBI Special Agent Catherine Nowery (Document 37-1).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of July, 2011, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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